

\*\*E-filed 8/3/05\*\*

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

DIRECTV, INC., a California corporation,	Case No. CV-05-0011 JF HRL
Plaintiff,	Hon. Jeremy Fogel
vs.	<b>STIPULATION TO SET ASIDE ORDER OF DISMISSAL WITH PREJUDICE AND REQUEST FOR VOLUNTARY DISMISSAL OF DEFENDANT DANIEL ARMINO WITHOUT PREJUDICE AND REQUEST TO RETAIN JURISDICTION; [PROPOSED] ORDER THEREON</b>
DANIEL ARMINO,	
Defendant.	

IT IS HEREBY STIPULATED by and between Plaintiff DIRECTV, Inc. ("DIRECTV") and Defendant DANIEL ARMINO ("Defendant") (collectively, "Parties"), through their respective counsel of record, that the Order of Dismissal issued by the Court on June 16, 2005 ("Order") in the above-captioned action may be set aside and that this action may be dismissed without prejudice, pursuant to Fed. R. Civ. P. 41(a)(1), each of said Parties to bear its/his own costs and attorneys' fees.

The Parties make this request on the grounds that the Order was entered *sua sponte* by the Court upon the filing of a Notice of Settlement by DIRECTV; however, the terms of the Confidential Settlement Agreement dated June 8, 2005 ("Agreement") and entered into between the Defendant and DIRECTV require the performance of certain obligations by Defendant that

1 will not be completed until June 2007. Defendant is not entitled under the Agreement of the  
2 dismissal of this action with prejudice until the performance in full of those obligations. If the  
3 Defendant does not timely or fully perform these obligations when due, DIRECTV is authorized  
4 under the Agreement to seek enforcement of those obligations in this Court. The Parties therefore  
5 have consented, and hereby further stipulate and consent to, the retention of jurisdiction over  
6 them by this Court and to reference to a Magistrate Judge in this District for the purpose of  
7 enforcing those obligations of the Agreement, as defined therein.

8 The Parties therefore respectfully request that the Court set aside the Order and  
9 enter an order dismissing this action without prejudice and retaining jurisdiction to enforce the  
10 payment terms of the Agreement.

11 *Agreed!*  
DATED: July \_\_\_\_, 2005

Respectfully Submitted,

12 BUCHALTER, NEMER, FIELDS & YOUNGER  
13 A Professional Corporation

14  
15 By: 

16 Brandon Q. Tran  
17 Attorneys for Plaintiff DIRECTV, Inc.

18 DATED: July \_\_\_\_, 2005

PARR LAW GROUP

19 By: 

20 Shawn R. Parr  
21 Attorneys for Defendant Daniel Armino

## ORDER

HAVING READ AND CONSIDERED the forgoing Stipulation for Voluntary Dismissal of Defendant Daniel Armino and Request to Retain Jurisdiction, and such other pleadings, documents and records deemed appropriate by the Court, and good cause appearing therefore, IT IS HEREBY ORDERED:

6 (1) The Order of Dismissal dated June 16, 2005 is set aside;  
7 (2) Defendant DANIEL ARMINO is hereby dismissed from this action  
8 without prejudice;  
9 (3) Each of said parties to bear its/his own costs and attorneys' fees; and  
10 (4) The Court shall retain jurisdiction over DIRECTV and Defendant DANIEL  
11 ARMINO to enforce the terms described above of the Settlement Agreement between those  
12 parties dated June 8, 2005 and hereby refers any further proceedings in this action to enforce such  
13 terms of the Settlement Agreement to a Magistrate Judge of this District.

15 | Dated: 8/3/05

/s/electronic signature authorized

Honorable Jeremy Fogel  
United States District Court  
Northern District of California